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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,161	07/12/2001	John L. Barrett	8X8S.261PA	2760

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EXAMINER	
POWERS, WILLIAM S	

ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/905,161	BARRETT, JOHN L.	
	Examiner	Art Unit	
	William S. Powers	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11/15/2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Drawings

1. In light of Applicant's amendment, all prior objections to the drawings are withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no evidence in the specification that shows that a person can be identified as unauthorized through heat, motion or sound sensors. A person's presence is signaled by said sensors, but the determination of a person's authorization status through heat, motion or sound detection is not detailed. It appears from the specification that anybody, but the initial computer user is considered

unauthorized. In this case, a superior to the authorized user would not be able to view data on the authorized user's computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-8, 10-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick).

As to claims 1 and 18, Atick teaches:

a. Automatically detecting at least one unauthorized person within a predetermined range of the electronically displayed information by sensing one of heat, motion and sound, the at least one unauthorized person being in position to view the electronically displayed information (detecting motion of an unauthorized person within reading distance of the terminal) (column 8, lines 8-22).

b. Communicatively coupling a signal to the display controller in response to the automatic detection (column 8, lines 8-22).

c. In response to the signal and using the display controller, automatically blocking the electronically displayed information (column 8, lines 8-22).

As to claim 2, Atick teaches automatically blocking the electronically displayed information includes removing the electronically displayed information from the display (column 8, lines 20-22).

As to claim 3, Atick teaches automatically blocking the electronically displayed information includes replacing the electronically displayed information from the display with other data (column 8, lines 20-22).

As to claim 4, Atick teaches that the other data is a background screen (column 8, lines 20-22).

As to claim 5, Atick teaches that the other data includes an audio file (the use of a "prerecorded multimedia greeting message" when an unauthorized individual enters the view field of the monitoring system) (column 10, lines 36-42).

As to claim 6, Atick teaches the other data includes a pre-selected software application (column 8, lines 47-48).

As to claim 7, Atick teaches the step of automatically detecting a person includes using a detection-module (video camera) adapted to detect the person within the predetermined range, wherein the detection module includes a detection software application that configures the display controller to respond to the detection module (column 8, lines 8-22).

As to claim 8, Atick teaches the step of automatically detecting a person, enabling an imaging device for capturing an image of the person detected (column 10 lines 19-22).

As to claim 10, Atick teaches:

a. Automatically detecting at least one person within a predetermined range of the electronically displayed information, the at least one unauthorized person in position to view the electronically displayed information (detecting motion of an unauthorized person within reading distance of the terminal) (column 8, lines 8-22).

b. Communicatively coupling a signal to the display controller in response to the automatic detection (column 8, lines 8-22).

c. In response to the signal and using the display controller, automatically blocking the electronically displayed information (column 8, lines 8-22).

As to claim 11, Atick teaches automatically detecting means includes a detection module configured and arranged to detect a set of input data, wherein the input data is selected from the group consisting of: heat, motion, light variations and sound (the use of "discontinuities in the spatial, temporal, and color domains of the video image" to detect the presence of an individual) (column 4, lines 20-27).

As to claim 12, Atick teaches that communicatively coupling means includes a display processor responsive to the detection module configured and arranged to control the display controller (when an unauthorized person is detected the display is disabled or the information is replaced with other information) (column 8, 8-22).

As to claim 13, Atick teaches a detector adapter configured and arranged to convert the set of input data from the detection module to a detection signal, wherein the detection signal is configured to drive the display processor (when an unauthorized person is detected the display is disabled or the information is replaced with other information) (column 8, 8-22).

As to claim 14, Atick teaches an alternate media input module (video camera) configured and arranged to communicate with the display processor (column 3, lines 49-51).

As to claim 15, Atick teaches an imaging device adapted to capture and encode an image of the person detected and transmit the encoded image to the alternate media input module for processing (column 10, lines 19-35).

As to claim 16, Atick teaches a microphone adapted to decode a sound signal of the person detected and transmit the decoded-signal to the alternate media input module for processing (column 9, line 53-column 10, line 18).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,111,517 to Atick et al. (hereto referred to as Atick), as applied to claim 1 and claims 10, 11 and 12 above, respectively, in view of US Patent No. 6,380,924 to Yee et al. (hereinafter Yee).

As to claims 9 and 17, Atick does not expressly mention recording the keystrokes executed on a computer. However, in an analogous art, Yee teaches enabling a key-stroke tracking application for tracking keystrokes or system commands entered on a keyboard wherein the keyboard is communicatively coupled to a display processor (column 7, lines 27-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the computer access control apparatus of Atick with the key stroke recording of Yee in order to monitor the user's work actions for security purposes as suggested by Yee (column 5, lines 15-20).

Response to Arguments

5. Applicant's arguments filed 11/15/2005 have been fully considered but they are not persuasive.

As per Applicant's argument that Atick patent is limited to face recognition and doesn't automatically detect a person, the argument is not persuasive. The Atick patent uses facial recognition to determine if a detected person has sufficient authorization to

view restricted data, but that is just a part of the invention of Atick. The camera detects movement, takes an image and processes it with no input from the user (column 8, lines 8-22).

As per Applicant's argument that the video camera of Atick is not in any way equivalent to detection means that uses "heat, motion, light variations and sound", the argument is not persuasive. Applicant is directed to column 4, lines 20-39. The video camera detects the presence of a person through the "discontinuities in the spatial, temporal and color domains of the video image."

As per Applicant's argument that only the authorized user's keystrokes would be recorded, the argument is not persuasive. Yee's invention records the keystrokes of "any user" of a particular computer (column 7, lines 55-59). No distinction is made between an authorized user and an unauthorized user.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

6. Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/041,756. This is a

provisional double patenting rejection since the conflicting claims have not in fact been patented.

7. Claim 1 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/041,756. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to substantially the same invention and recites only obvious differences that would have been obvious to one of ordinary skill in the art of data security such as using the word "modifying" in the instant application instead of "blocking" used in the co-pending application (10/041,756). In the instant application (09/905,161), the specification states that blocking the electronic information "occurs upon reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen" (page 5, lines 19-20). In the pending application (10/041,756), the specification states that modifying the electronic information "is blocked by reconfiguring the display to replace the sensitive information with either a screen saver application or with a blank screen" (page 7, lines 12-14). Clearly, in context of the respective specifications, the applicants use the words modifying and blocking interchangeably. In the broader sense of each application, the words are also interchangeable. Both applications want to protect sensitive data from dissemination to unauthorized individuals. This is accomplished by altering the image of the data on the display device, not the data itself. The altering or modifying of the image of data on the display blocks access to that data. Blocking the image of data on the display modifies the image by replacing it with a blank screen or screen saver.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571 272 3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William S. Powers
Examiner
Art Unit 2134